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GP1642

October 24, 2003

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Art Unit 1642

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Re: U.S. Utility Patent Application
Appl. No. 09/462,625; Filed: July 28, 2000
For: **Tumor Growth Inhibition- and Apoptosis-Associated Genes and
Polypeptides and Methods of Use Thereof**
Inventors: Georgiev *et al.*
Our Ref: 0652.1630001/EKS/JUK

Sir:

Transmitted herewith for appropriate action are the following documents:

1. Statement of Substance of Examiner Interview; and
2. One (1) return postcard.


It is respectfully requested that the attached postcard be stamped with the date of filing of these documents, and that it be returned to our courier. In the event that extensions of time are necessary to prevent abandonment of this patent application, then such extensions of time are hereby petitioned.

Commissioner for Patents
October 24, 2003
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The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Judith U. Kim
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EKS/JUK:cpn
Enclosures

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Georgiev *et al.*

Appl. No.: 09/462,625

Filed: July 28, 2000

For: **Tumor Growth Inhibition- and
Apoptosis-Associated Genes and
Polypeptides and Methods of Use Thereof**

Confirmation No.: 5330

Art Unit: 1642

Examiner: Stephen L. Rawlings

Atty Docket: 0652.1630001/EKS/JUK

Statement of Substance of Examiner Interview

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

An Examiner Interview for the captioned application was conducted on September 10, 2003. Pursuant to the Interview Summary mailed September 24, 2003, which directs Applicants to file a statement of the substance of the interview within one month from the date of the interview if a reply to the last Office Action has already been filed, Applicants submit herewith such a statement.

Applicants and Applicants' representative wish to thank Examiner Stephen Rawlings for the telephonic interview with the undersigned Applicants' representative on September 10, 2003.

During the interview, the Examiner indicated that the rejections under 35 U.S.C. §112, first paragraph, and the rejection under 35 U.S.C. § 102(a) would be withdrawn.

However, the Examiner indicated that he would maintain the rejections of claims 53-58, 60-72, 73, 75-77, 79-83, 85-91, and 93 under 35 U.S.C. § 102(b) as allegedly being anticipated by Kustikova *et al.*, *Genetika* 32:621-628 (1996), or Kustikova *et al.*, *Russian*

J. Genetics 32:540-546 (1996). The Examiner indicated during the telephonic interview that the letter from the editor of *Genetika* (Exhibit D, filed June 4, 2003) is insufficient to overcome these rejections because the letter (1) provides the wrong volume (volume 35 in the letter should be volume 32), (2) does not provide that volume 32 was not received by subscribers before the critical date of July 11, 1996, and (3) only refers to *Genetika* (should also provide information for Russian Journal of Genetics). The Examiner also indicated that the double patenting rejection of the claims is maintained but can be overcome with a terminal disclaimer.

Applicants' representative informed the Examiner that Applicants are attempting to obtain further evidence from *Genetika* and Russian Journal of Genetics, and that a terminal disclaimer will be filed upon resolving the rejections over the Kustikova *et al.* documents.

In the meantime, if the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Judith U. Kim

Judith U. Kim
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Date: October 24, 2003

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